

### **REMARKS**

Applicants have considered the Notice of Allowance, and accompanying Examiner's Amendment and Statement of Reasons for Allowance, mailed September 23, 2005 in connection with the above-identified patent application and respectfully request entry of the instant Amendment and remarks to the file history thereof.

Applicants respectfully request that the Office notes the new attorney docket no. (17282-007001) for the subject application and updates their records with the same.

### **Amendments to the Claims**

Applicants respectfully point out that none of the Examiner's amendments, as entered September 23, 2005, is disturbed by Applicants' amendments presented herein, except where errors of a typographical nature are involved.

In particular, Applicants amend claim 11 to correct a typographical error, and claim 53 to correct a grammatical error.

Applicants respectfully submit that the amendments herein do not introduce new matter into the subject application and do not raise new issues for examination. Accordingly, a reopening of prosecution is not warranted on the basis of these amendments. Furthermore, Applicants respectfully submit that the need for the subject amendments was only appreciated upon review of the complete set of allowed claims after receipt of the Notice of Allowance and Accompanying Examiner's Amendment. Therefore, Applicants respectfully request that the instant amendments be entered into the file history of the subject application.

Applicant respectfully submits that, notwithstanding the Examiner's assessment of the differences between Applicant's claimed invention and the cited references, the lack of a teaching of "including a microstructure-based failure model in the RVE" is not the sole difference between Applicant's invention and the prior art of record. In particular, the Examiner is referred to remarks presented in Applicant's amendment and reply, dated July 11, 2005, in which it was stated (at page 14) that the combination of the references does not teach an RVE microstructure-based failure model.

**CONCLUSION**

In view of the above remarks, Applicants respectfully submit that the subject application is in good and proper order to proceed to issue. If, in the opinion of the Examiner, a telephone conference would resolve any outstanding matters not heretofore resolved, the Examiner is encouraged to call the undersigned at (650) 839-5070.

No fee is believed owed in connection with filing of this amendment under Rule 312, other than the issue fee claim authorized on the accompanying transmittals. Nevertheless, should the Commissioner determine otherwise, he is authorized to charge any underpayment or credit any overpayment to Fish & Richardson P.C. Deposit Account No. 06-1050 (order no. 17282-007001) for the appropriate amount. A copy of this sheet is attached.

Respectfully submitted,

Date: December 20, 2005

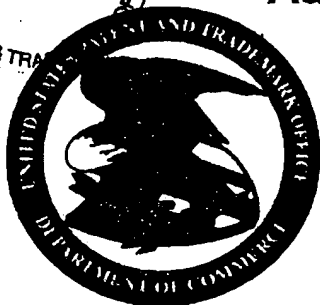
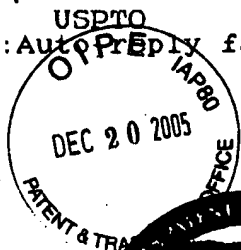
Richard G. A. Bone  
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Reg. No. 56,637

Fish & Richardson P.C.  
500 Arguello Street, Suite 500  
Redwood City, California 94063  
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Facsimile: (650) 839-5071

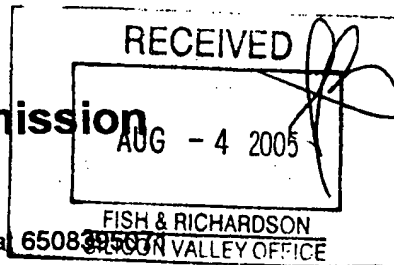
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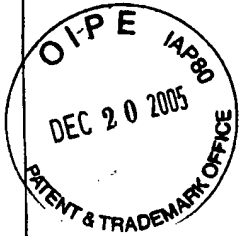
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08/04/2005 13:09 FAX 6508395071	FISH & RICHARDSON	001
<p>Attorney's Docket No.: 17282</p> <p><b>OFFICIAL COMMUNICATION FACSIMILE:</b></p> <p><b>OFFICIAL FAX NO: (571) 273-8300</b></p> <p>Number of pages including this page (3)</p> <p><b>MAIL STOP AMENDMENT</b>          Commissioner for Patents          P.O. Box 1450          Alexandria, VA 22313-1450</p> <p>Attached to this facsimile communication cover sheet is a Change of Correspondence Address and Appendix A identifying each application to be updated to reflect Customer Number 26181 as the Customer Number Address, these documents being faxed this 4<sup>th</sup> day of August, 2005, to the United States Patent and Trademark Office.</p> <p>Respectfully submitted,</p> <p>Date: August 4, 2005</p> <p><u>David J. Goren</u>          David J. Goren          Reg. No. 34,609</p> <p>Customer Number 26181</p> <p>Telephone: (650) 839-5070          Fax: (650) 839-5071</p> <p>50292245.doc</p>		
<p><small>NOTE: This facsimile is intended for the addressee only and may contain privileged or confidential information. If you have received this facsimile in error, please immediately call us collect at (650) 839-5070 to arrange for its return. Thank you.</small></p> <p><small>PAGE 12 * RCVD AT 8/4/2005 4:09:17 PM [Eastern Daylight Time] * SVR:USPTO-EXT-4/25 * CDS:2738300 * CND:6508395071 * DURATION (min-sec):01-40</small></p>		



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**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is a **Change of Correspondence Address and Appendix A** identifying each application to be updated to reflect **Customer Number 26181** as the Customer Number Address, these documents being faxed this 4<sup>th</sup> day of **August, 2005**, to the United States Patent and Trademark Office.

Respectfully submitted,

Date: August 4, 2005

  
David J. Goren  
Reg. No. 34,609

**Customer Number 26181**

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Attorney's Docket No.: 17282

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**OFFICIAL FAX NO: (571) 273-8300**

Number of pages including this page (3)


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50292246.doc

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FISH & RICHARDSON P.C.

PTO/SB/123(08-03)  
Approved for use through 11/30/2005. OMB 0851-0035  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

**CHANGE OF  
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*Patent*

Attorney Docket No.

See Attachment - Appendix A

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Please change the Correspondence Address for the above-identified application to:

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I am the:

☐ Patentee.

☐ Assignee of record of the entire interest. See CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed.

☒ Attorney or agent of record. Registration Number 35,322

Typed or Printed

Name

John C. Phillips

Reg. No. 35,322

Signature

Date

8/2/05

Telephone

(650) 839-5070

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of (2) forms are submitted.

**APPENDIX A**  
**CUSTOMER NUMBER 26181**

17282-007001	10/25/2001	10/002,316	Robert G. Tryon III	Method and Apparatus for Predicting the Failure of a Component
17282-008P01	10/26/2000	60/243,880	Robert G. Tryon III	System and Method for Predicting Structural Failure - Prov.
17282-009001	1/8/2002	10/043,712	Robert G. Tryon III	( Vol. 1 of 2 ) Method and Apparatus for Predicting the Failure in a System
17282-009P01	1/8/2001	60/260,449	Robert G. Tryon III	Method and Apparatus for Predicting the Failure in a System - Prov.
17282-010001	8/7/2003	10/636,887	Loren A. Nasser	An Apparatus and Method for Predicting Total Ownership Cost
17282-010P01	8/7/2002	60/401,892	Robert G. Tryon III	An Apparatus and Method for Predicting Total Ownership Cost - Prov.
17282-011001	8/9/2004	10/914,599	Robert G. Tryon III	Apparatus and Method for Modeling Multi-cell Systems
17282-011P01	8/7/2003	60/493,364	Robert G. Tryon III	Apparatus and Method for Modeling 3D Microstructure -Prov.